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Attorneys for Defendant

Robert Alan Jones

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

| | | |
|--------------------------|---|--------------------------|
| CAROL J. NELSON, |) | CIVIL NO. 01-0182 HG/LEK |
| |) | |
| Plaintiff, |) | DEFENDANT'S SUPPLEMENTAL |
| |) | STATEMENT OF POSITION AS |
| vs. |) | TO CLARIFICATION AS TO |
| |) | REMAINING PARTIES AND |
| ROBERT ALAN JONES, |) | CLAIMS; CERTIFICATE OF |
| |) | SERVICE |
| Defendants, |) | |
| |) | |
| |) | HEARING: |
| ROBERT ALAN JONES, |) | Date: February 24, 2006 |
| |) | Time: 10:00 a.m. |
| Counterclaimant, |) | Judge: Helen Gillmor |
| |) | |
| vs. |) | |
| |) | JURY TRIAL: Tentative |
| CAROL J. NELSON, MICHAEL |) | Date: April 18, 2006 |
| CETRARO, |) | |
| |) | TRIAL JUDGE: Magistrate |
| Counterclaim |) | Judge Kevin S.C. Chang |
| Defendants. |) | |
| |) | |
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**DEFENDANT'S SUPPLEMENTAL STATEMENT OF POSITION AS TO
CLARIFICATION AS TO REMAINING PARTIES AND CLAIMS**

Defendant Robert Alan Jones, through his counsel, Clay Chapman Crumpton Iwamura & Pulice, pursuant to this court's oral ruling and the Minutes of the hearing on February 24, 2006, provides the following supplemental statement of position as to the issue of the remaining parties and remaining claims, following the issuance of the opinion of the Ninth Circuit Court of Appeals.

The Memorandum issued by the Ninth Circuit states that the appeal is from this court's order granting summary judgment. This court's summary judgment order addressed the counterclaim in its entirety, not only portions thereof. The ruling of the Ninth Circuit, which mentions only certain specific issues, is not, by its wording, limited to only portions of the summary judgment ruling.

For example, in the ruling as to "Conversion of Assets" (Counterclaim 4) (p.39 of this court's Order), this court's dismissal of the claim is based substantially on the position that Jones' payments were obligated pursuant to the Agreement of Sale. The Ninth

Circuit specifically questioned this court's ruling that the Agreement of Sale was invalid, and noted that there remained factual issues concerning failure of the Licensing Agreement. Insofar as this court granted Nelson's summary judgment as to the conversion claim based on Jones' purported breach of the Agreement of Sale, the Ninth Circuit ruling affects this court's dismissal of the Conversion of Assets claim.

Further, the Ninth Circuit's ruling addresses Plaintiff's contention that the appeal was moot by stating that specific performance - another of the counterclaim issues - may be remedied by some equitable relief. In other words, the Ninth Circuit addressed the entire summary judgment ruling, and considered dismissal of the counterclaim as within the scope of the appeal.

The Ninth Circuit thereafter vacated and remanded, without limitation - i.e. in its entirety. It is Defendant Jones' position that the language of any briefs, arguments, or unreported or not published opinion is therefore of no effect. The Order issued by the Ninth Circuit controls.

For those reasons, Defendant Jones respectfully requests that this court enter a clarification ruling that the entire counterclaim remains at issue, and that Michael Cetraro continues to be a party to this action.

DATED: Honolulu, Hawaii, March 10, 2006.

 /Mary Martin
ROBERT E. CHAPMAN
MARY MARTIN
Attorneys for Defendant
Robert Alan Jones

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

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| CAROL J. NELSON, |) | CIVIL NO. 01-0182 HG/LEK |
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| Plaintiff, |) | CERTIFICATE OF SERVICE |
| |) | |
| vs. |) | |
| |) | |
| ROBERT ALAN JONES, |) | |
| |) | |
| Defendants, |) | |
| _____ |) | |
| |) | |
| ROBERT ALAN JONES, |) | |
| |) | |
| Counterclaimant, |) | |
| |) | |
| vs. |) | |
| |) | |
| CAROL J. NELSON, MICHAEL |) | |
| CETRARO, |) | |
| |) | |
| Counterclaim |) | |
| Defendants. |) | |
| |) | |
| _____ |) | |

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing document was duly served, by hand delivery, to the following parties at their last known address:

TO: ENVER W. PAINTER, Jr., Esq.
1188 Bishop St., Suite 2505
Honolulu, HI 96813
Attorney for Plaintiff, and for Counterclaim
Defendant Michael Cetraro

DATED: Honolulu, Hawaii, March 10, 2006.

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